

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

vs.

CHARLES GEORGE ANDREOPOULOS,
Defendant.

MEMORANDUM DECISION AND
ORDER GRANTING
GOVERNMENT'S MOTION IN
LIMINE REGARDING PHOTO
LINE-UP CREATED BY
DEFENDANT

Case No. 2:08-CR-24 TS

The government seeks to exclude evidence of a photographic line-up created by Defendant and shown to potential government witnesses prior to trial on the ground that it does not fairly and accurately depict Defendant's appearance at the time of the alleged offense. The government represents that the photo of Defendant used in his photo line-up depicts Defendant at a significant time after the charged offense and shows Defendant with a full beard. The government further represents that Defendant did not have a full beard at the time of his arrest. Defendant has not responded.

In *United States v. Al Kashif*,¹ the Tenth Circuit affirmed the exclusion of a photo line-up created by the Defendant on grounds that it lacked foundation and relevance because there “was no showing [that] the photographs fairly and accurately depicted [the defendant’s] appearance during the relevant time.”² The Court finds the facts involved in photo line-up in the unreported *Al Kashif* case to be nearly identical to those in the present case, and, therefore, finds the case to be persuasive. As in *Al Kashif*, there is no showing in the present case sufficient to establish the relevance of the photo line-up created by Defendant to his appearance at the relevant time. It is therefore

ORDERED that the government’s Motion in Limine Regarding Photo Line-up Created by Defendant (Docket No. 62) is GRANTED.

DATED August 28, 2009.

BY THE COURT:



TED STEWART
United States District Judge

¹1991 WL 268917 (10th Cir. Dec. 10, 1991).

²*Id.* at *2.